BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA,

Petitioner,

vs.

RYAN BENNETT.

Respondent.

Case No. 2016-1402



OCT 3 1 2018

REAL ESTATE COMMISSION

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies RESPONDENT RYAN BENNETT ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.235 and NRS 622.400, and the discipline to be imposed, if a violation of law is proven.

JURISDICTION

RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, issued by the Division and is, therefore, subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

1. At all times relevant to this Complaint, RESPONDENT was not licensed by the Division in any capacity.

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- 2. At all times relevant to this Complaint, RESPONDENT was a principal with Lee & Associates Commercial Real Estate Services, NDSC, Inc. ("Lee North San Diego County"), and a California License No. 011826517.
- 3. RESPONDENT represented the owner (Gabriel Hagemann, Successor Trustee to the Francis Realty Inc. Profit Sharing Plan) under an exclusive listing agreement resulting in a February 29, 2016 sale of an O'Reilly's Auto Parts Store in Reno, Nevada.
- 4. RESPONDENT entered into a "Co-broker Engagement and Compensation Agreement" ("the Co-Broker Agreement") with a Nevada licensee ("Co-Broker"), under which the Nevada licensee would be entitled to a flat fee commission of \$1,000 on a sale, except wherein Co-Broker introduced the buyer to RESPONDENT, under which circumstances RESPONDENT would split its commissions evenly with Co-Broker.
- 5. The Co-Broker Agreement stated that "Co-Broker is only being engaged for state licensing purposes. No marketing assistance is required or is necessary."
- 6. RESPONDENT advertised the sale of the real property and was identified as listing agent in advertisements and in the exclusive listing agreement.
 - 7. The store sold for \$1,710,000.
- 8. On May 24, 2016, the DIVISION issued an order to RESPONDENT to cease and desist from conducting "all broker activity as defined by NRS 645.030."
- 9. Lee North San Diego County received \$34,200 in commissions from the sale of the real property.

VIOLATIONS

10. RESPONDENT violated NRS 645.230(1)(a) and/or NRS 645.235(1)(a) by engaging in the business of, acting in the capacity of, or advertising or assuming to act as a real estate broker, real estate broker-salesperson, or real estate salesperson within the State of Nevada without first obtaining a real estate license from the Division.

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DISCIPLINE AUTHORIZED

- 11. Pursuant to NRS 645.235, the Commission is empowered to impose an administrative fine not to exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater, against RESPONDENT.
- 12. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.
- 13. Therefore, the Division requests that the Commission take such disciplinary action as it deems appropriate under the circumstances.

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider the Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE on December 4, 2018, commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through December 6, 2018, or earlier if the business of the Commission is concluded. The Commission meeting will be held on December 4, 2018, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue on December 5, 2018 at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on December 6, 2018, should business not be concluded, starting at 9:00 a.m. at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102.

STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same time as part of a regular meeting of the Commission that is expected to last from December 4 through December 6, 2018, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may

be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you have any questions please call Teralyn Thompson, Administration Section Manager, (702) 486-4036.

YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

As the Respondent, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved.

You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

You have the right to request that the Commission issue subpoenas to compel witnesses to testify and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC 645 and if the allegations contained herein are substantially proven by the evidence presented and

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1	to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
2	pursuant to NRS 645.235, 645.633 or 645.630.
3	DATED this 30 day of October, 2018.
4	State of Nevada
5	Department of Business and Industry Real Estate Division
6	- What and
7	By: SHARATH CHANDRA, Administrator
8	3300 West Sahara Avenue, Suite 350 Las Vegas, Nevada 89102
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10	ADAM PAUL LAXALT
11	Attorney General
12	By: Del Z
13	DENNIS L. BELCOURT (Bar. No. 2658) Deputy Attorney General
14	555 E. Washington Avenue, Suite 3900 Las Vegas, Nevada 89101
15	(702) 486-3326
16	Attorneys for Real Estate Division
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